

/UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
In re:

Chapter 7

BMT DESIGNERS & PLANNERS, INC.,
fdba BMT D&P, fdba BMT fdba BMT DAS US,

Case No. 22-10123 (MG)

Debtor.
-----X

**STIPULATION AND ORDER BETWEEN TRUSTEE AND FINCANTIERI
MARINETTE MARINE RESOLVING THE ACCOUNT RECEIVABLE
OWED TO THE DEBTOR'S ESTATE AND RELATED RELIEF**

This stipulation ("Stipulation") is entered into by and between Salvatore LaMonica, solely in his capacity as the Chapter 7 Trustee ("Trustee") of the bankruptcy estate ("Estate") of BMT Designers & Planners, Inc., fdba BMT D&P, fdba BMT fdba BMT DAS US ("Debtor"), and Marinette Marine Corporation, a Wisconsin corporation, dba Fincantieri Marinette Marine ("FMM", along with the Trustee, are "Parties") to resolve the account receivable owed to the Estate and to reject the contact between the Debtor and FMM pursuant to 11 U.S.C. § 365 ("Bankruptcy Code"), and for related relief as set forth herein.

RECITALS

I. Procedural Background

A. On February 1, 2022 ("Petition Date"), the Debtor filed a voluntary petition under Chapter 7 of the Bankruptcy Code in the United States Bankruptcy Court, Southern District of New York ("Court").

B. On or about the Petition Date, the Trustee was appointed as the interim Chapter 7 Trustee of the Estate, has since duly qualified and is the permanent Trustee administering this Estate.

C. On February 17, 2022, this Court entered an Order Authorizing the Chapter 7 Trustee to Operate the Debtor's Business and Pay Certain Operating Expenses of the Estate pursuant to Bankruptcy Code section 721 [ECF Dkt. # 17].

D. The last day to file claims against the Estate was May 31, 2022.

E. Prior to the Petition Date, on or about March 1, 2021, the Debtor and FMM entered into a contract whereby, among other things, the Debtor provided services to FMM in connection with the United States Navy Guided Missile Frigate Replacement Program (“Contract”).

F. Based on these services rendered under the Contract, the Trustee asserted that FMM owed the Estate the amount of \$216,000 (“Account Receivable”).

G. FMM asserted affirmative defenses to offset the amount owed on account of the Account Receivable.

H. After extensive negotiations, the Parties agreed to settle the Account Receivable and to reject the Contract as set forth herein.

TERMS AND CONDITIONS

1. The recitals above are incorporated by reference as if set forth at length herein and the Parties agree to the accuracy thereof.

2. The effective date of this Stipulation is the date the Court so-orders this Stipulation (“Effective Date”).

3. Upon execution of this Stipulation, the Trustee shall provide FMM a copy of the Estate’s form W-9 and payment instructions (“Payment Instructions”).

4. Within fifteen (15) business days of Effective Date, FMM shall pay, via ACH payment according to the Payment Instructions, the sum of \$140,000 to the Estate in full and final satisfaction of the Account Receivable.

5. Upon the Effective Date, the Contract between the Parties shall be deemed rejected.

6. If the Court does not approve this Stipulation, then the Stipulation shall be deemed null and void and of no force and effect, and the Parties to this Stipulation shall retain all rights, claims and/or defenses that they may have against each other.

7. This Court shall retain exclusive jurisdiction over the subject matter of this Stipulation in order to resolve any dispute in connection with the rights and duties specified hereunder.

8. This Stipulation may be executed in any number of counterparts, any and all of which shall be deemed to be original. The Parties shall be bound by their signatures transmitted by facsimile or electronic mail (in pdf format) as if such signatures were original “ink” signatures.

Dated: August 9, 2022
Wantagh, New York

LaMONICA HERBST & MANISCALCO, LLP
Counsel to Salvatore LaMonica, Chapter 7 Trustee

By: s/ Jacquelyn S. Loftin
Jacquelyn S. Loftin, Esq.
3305 Jerusalem Avenue, Suite 201
Wantagh, New York 11793
Telephone: 516.826.6500

Dated: August 9, 2022
Green Bay, Wisconsin

GODREY & KAHN, S.C.
Counsel to Marinette Marine Corporation

By: s/ Timothy F. Nixon
Timothy F. Nixon, Esq.
200 South Washington Street, Suite 100
Green Bay, Wisconsin 54301
Telephone: 920.831.6365

SO ORDERED, on the __ day of August, 2022

Honorable Martin Glenn
Chief United States Bankruptcy Judge